

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARJORIE GARST,

Plaintiff,

vs.

OMAHA OUTLETS, L.L.C.,

Defendant.

4:17CV3145

ORDER

Plaintiff's complaint requested a Lincoln, Nebraska trial location. Defendant has moved to change the trial location to Omaha, Nebraska. (Filing No. 9). For the reasons discussed below, the motion will be denied, and this case will be tried in Lincoln, Nebraska.

Under the court's local rules, when deciding the place of trial "the judge shall consider the convenience of litigants, witnesses and counsel," NECivR. 40.1(b)(1), with the convenience of the litigants and witnesses generally afforded greater weight than the convenience of counsel. [Bank of Beaver City v. Southwest Feeders, L.L.C., No. 4:10CV3209, 2011 WL 116863, at *1 \(D. Neb. Jan. 13, 2011\)](#).

The incident at issue occurred at the Nebraska Crossing Outlet Mall near Gretna, Nebraska, which is located 36 miles from the Lincoln federal courthouse and 24 miles from the Omaha courthouse. As to Defendant, its principals, registered agent, and counsel are all located in Omaha. Plaintiff, an eye witness to the accident, and Plaintiff's treating physicians all live and work in Central Kansas, within a 2- or 3-hour drive from Lincoln and a 3- or 4-hour drive from

Omaha. In fact, Plaintiff, her witnesses, and her counsel would likely need to drive through or past Lincoln on Interstate 80 to get to an Omaha trial location.

Having considered the convenience of the litigants, witnesses, and counsel as supported by the evidence of record, the court finds that, on balance, Lincoln is more centrally located for the parties and witnesses as a whole, and Lincoln is the proper location for the trial of this case.

Accordingly,

IT IS ORDERED:

- 1) The motion to change the trial location, (Filing No. 9), is denied.
- 2) The trial of this case will be held in Lincoln, Nebraska.

December 5, 2017.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge